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ABSTRACT

The purpose of this publication is to acquaint educators with the Professional Teaching Practices Commission of Kansas, which was created by the Teachers Practices Act of 1969. The commission serves in an advisory function to the Kansas State Board of Education with responsibility, power, and authority to investigate problems relating to the teaching profession. The commission hears cases involving the issuance, continuance, suspension, revocation, or reinstatement of teachers' and administrators' certificates and makes recommendations to the Kansas State Board of Education regarding disposition of those cases. Part 1 of the paper contains definitions of options and alternatives relating to key points in the complaint process. Part 2 describes a typical sequence of action when a complaint is filed with the commission. (Author/LD)

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DEFINITIONS AND OUTLINE OF BASIC OPERATIONAL PROCEDURES OF THE KANSAS PROFESSIONAL TEACHING PRACTICES COMMISSION

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EA 012 144

FOREWORD

This condensed publication is primarily for the purpose of acquainting educators with the Professional Teaching Practices Commission which was created by the Teachers Practices Act of 1969 (K.S.A. 72-8501 et seq.). The Commission serves in an advisory function to the State Board of Education with responsibility, power, and authority to investigate problems relating to the teaching profession.

The Commission hears cases involving the issuance, continuance, suspension, revocation, or reinstatement of teachers' and administrators' certificates and makes recommendations to the Kansas State Board of Education regarding disposition of said cases.

The Commission consists of seventeen members who are appointed by the State Board. The membership includes the following: eight classroom teachers (elementary, junior high school, high school or junior college, including specialized non-administrative personnel), one chief school administrator, one high school principal, one junior high principal, one elementary school principal, one vocational teacher or administrator, three chosen without regard to the special areas specified above. The Secretary of the Commission is the charge and responsibility of the State Department of Education.

Should you like additional information or clarification of the procedural outline, please feel free to contact your Commission representative and/or the Secretary of the Professional Teaching Practices Commission, 120 East 10th, Topeka, Kansas 66612.

PART I DEFINITIONS

Definitions of Options and Alternatives relating to key points and the complaint sequences.

Complaint: Any proceedings before the Practices Commission shall be initiated by:

1) A member of the teaching profession filing a written complaint.
2) The State Board of Education referring a case to the Practices Commission.
3) The Practices Commission on its own motion initiating a case.

Form of the Complaint:

1) The complaint shall be signed by the complainant who is a professional educator.

2) The complaint shall be verified or accompanied by an Affidavit attesting to the veracity of the contents thereof.

3) The complaint shall be typewritten or legibly written on legal size paper with correct captions.

4) The complaint shall fully and completely advise the respondent of any and all charges against him, the legal issues involved citing statutes pertaining to the charges and the relief sought by the complainant.

5) The complaint shall have attached all written instruments or documents that are material or relevant to the charges.

6) The complaint shall contain the post office address of the complainant, respondent, all persons known to the complainant who know the facts upon which the allegations are based.

7) The complaint may be amended by order of the Practices Commission. Such amended complaint shall be filed within ten (10) days from the date the order is received.

8) Complaint shall be filed within sixty (60) days after commission of act.

Rights of the Respondent:

1) Prior to entering any investigation, the respondent and all other persons having an interest in the subject of the complaint shall be furnished copies of all complaints, pending orders and all other papers, instruments, documents, exhibits or transcripts contained in the file to be used in the case.

2) Every respondent shall be advised as to the significance of all allegations and charges against him and his rights

   a. to remain silent,
   b. to defend himself, and

c. to employ and have assistance of an attorney in the protection of his rights and in conducting his defense at every step of the proceedings against him.

3) Every respondent shall have the right to participate in every phase of any investigation made by the Practices Commission including:

a. the right to participate in any interview,
b. to interrogate, examine and cross-examine any witness,
c. to examine and be furnished copies of all orders, findings, reports, transcripts, exhibits, documents, and any instrument in writing at the conclusion of any investigative proceeding that is premised on the allegations contained in the complaint which the Practices Commission intends to use against him, and
d. to be represented by an attorney.

4) Any material evidence whether adduced from witnesses, exhibits, or documents or whatever the form or manner obtained by the Practices Commission without the respondent having first been given the right to be present and participate in such investigation, as herein provided, shall be expunged from the file or case and shall not be considered against him.

The Response:

1) The respondent shall have the right not to file an answer, to file a general denial or to file a denial or explanation with particularity.

2) If the respondent files an answer, he may admit or deny all allegations. Allegations shall be considered admitted when not denied except when a general denial or no answer is filed. The response shall be filed and verified by the respondent or his attorney and shall be typewritten or legibly printed on legal size paper with correct caption and with numbered paragraphs. The response shall have attached all written instruments or documents which apply or shall be referred to therein if not available.

Investigation:

1) In an investigation, consideration will be given to:

a. simplification of any issue of fact or law to the desirability or necessity of amendment to the complaint,

b. the possibility of obtaining admission of fact in exhibits and documents so that proof can be established,
c. agreement on the limitation on the number of expert witnesses,
d. the advisability of referral of issues of fact to an investigation or investigators appointed by the Professional Teaching Practices Commission, and
e. such other matters which may aid in the disposition of the proceedings.

Report of Findings of Investigative Proceedings:

1) Upon completion of any investigation the Practices Commission or any member or members thereof conducting the investigation shall make a written order finding:

a. that the complaint is without merit and that no further action shall be taken by the Practices Commission or the State Board of Education,
b. that the complainant be permitted to withdraw his complaint,
c. that the complainant be required to file an amended complaint,
d. that there should be further investigation or formal hearing proceedings against the respondent and the respondent should be notified to file his answer if he intends to do so, or
e. that proceedings be instituted against the complainant.

2) The members of the investigation shall file all exhibit evidence in writing, transcripts along with the findings and reports with the secretary and a copy of the findings and reports shall also be given to the chairperson of the Practices Commission.

3) The complainant, respondent and all persons interested in the subject matter of the complaint shall be given notice in writing served by certified mail of such findings of the investigative proceedings.

Formal Hearings:

1) Hearings may be scheduled by the Practices Commission after due deliberation of a complaint which results in establishing a "prima facie" case for action or upon receipt of the findings and report of any investigation conducted by one or more of the members of the Practices Commission. The Practices

Commission will then issue its order directing that a hearing be held upon the allegations and charges contained in such complaint and shall fix the time and place for the hearing.

2) Copies of said orders shall be served by certified mail upon all persons having an interest in the proceedings.

3) The hearing shall be not less than thirty (30) days from the date of mailing or shall not be less than forty-one (41) days from the date the notice is published in the state paper.

4) The persons having a direct interest in the outcome of any proceedings shall be entitled to attend all the hearings held in connection with the complaint and the Practices Commission at its discretion may permit the attendance of any other persons.

5) Upon good cause, one or more continuances or extensions of the time may be granted.

6) A formal hearing may be waived upon written request and agreement of the complainant and respondent.

Oaths and Records:

1) At all investigations where testimony is taken or evidence adduced that is to be used against any respondent or any person or party to any proceedings and at all formal hearings before the Practices Commission every witness shall be sworn and complete record shall be made of all proceedings that take place. The Practices Commission shall make arrangements that will assure a good record. This may be done by an electronic recording, by a competent stenographer, or by a certified court reporter.

Decisions of the Practices Commission:

1) Following the hearing and closing of any case, the Practices Commission shall promptly render a decision upon the charges contained in the complaint. The decision of the Practices Commission shall include its recommendations of the disposition that should be made of the case which may be dismissal of the complaint, discipline of the respondent or proceedings against the complainant. The discipline of the respondent may include: private censure, suspension of certificate for definite or indefinite period, or cancellation of certificate, or to deny the renewal of the certificate for a given period of time or until a recommendation for renewal is given by the Practices Commission.

2) The decision of the Practices Commission to be signed by the chairperson of the Practices Commission.

3) Chairperson or presiding officer shall transmit such decision to the Kansas Commissioner of Education for its prompt consideration by the State Board of Education.

Order of Discipline by the State Board of Education:

1) The State Board of Education shall by motion or resolution order the disciplining of the respondent when it finds that the charges contained in the complaint are true. Such disciplining may consist of private censure, suspension of certificate, or cancellation of certificate. Any one of the above disciplinary actions may require the respondent to appear before the Practices Commission for review of the corrective measures and procedures, if any, taken by respondent prior to being reinstated to school employment.

2) The State Board of Education shall direct also that a copy of such order shall be served by certified mail upon the respondent, the complainant and all other persons proper parties to the case within five (5) days after the rendering of its decision whereupon the case shall be considered terminated.

PART II SEQUENCE OF ACTION

1. A complainant files a complaint with the Secretary of the Practices Commission.
2. A decision is made by the Chairperson and Secretary of the Practices Commission as to whether or not the form of the complaint is valid and in order.
3. If the form of the complaint is not valid or in order, the complaint is returned to the complainant for revision or withdrawal.
4. If the form of the complaint is valid and in order, the Secretary and Chairperson accept the complaint and notify the respondent by certified mail.
5. If there is a question concerning the complaint other than form, the Chairperson shall submit the complaint to the Commission for acceptance or rejection.
6. If rejected by the Commission, the complainant is notified of the specific reasons for denial.
7. If accepted by the Commission, the Secretary shall notify the respondent by certified mail.
8. After proper period of time for due process, twenty (20) days plus ten (10) days upon request, the case is presented to the Commission.
9. Determination is made by the Commission whether or not to conduct an investigation.
10. If an investigation is required, the Chairperson appoints an investigation committee, sets date for investigation, and notifies both parties.
11. Investigation committee reports to the Commission.
12. The Commission decides to dismiss the case, order further investigation, or conduct a hearing.
13. If the Commission decides to dismiss the case, both the complainant and the respondent are notified of the specific reasons by certified mail.
14. If the Commission decides further investigation is necessary, the Chairperson shall instruct the investigation committee to do so.
15. If the Commission decides to conduct a formal hearing, based upon the recommendation of the investigation committee, they shall set the date for the hearing.
16. Secretary notifies both parties of the date and location of hearing if both parties will waive a formal hearing.
17. If notification is successful to both parties and both parties waive the right to a formal hearing, the Commission makes decision and sends recommendation to State Board of Education.

18. If notification is successful to both parties and one party does not waive the right to a formal hearing, the Commission conducts hearing. (Must allow thirty (30) days from date notification is received by both parties.)

19. If notification is not successful to both parties, the Commission must publish notice of hearing and allow forty-one (41) days from date of publication to date of hearing.

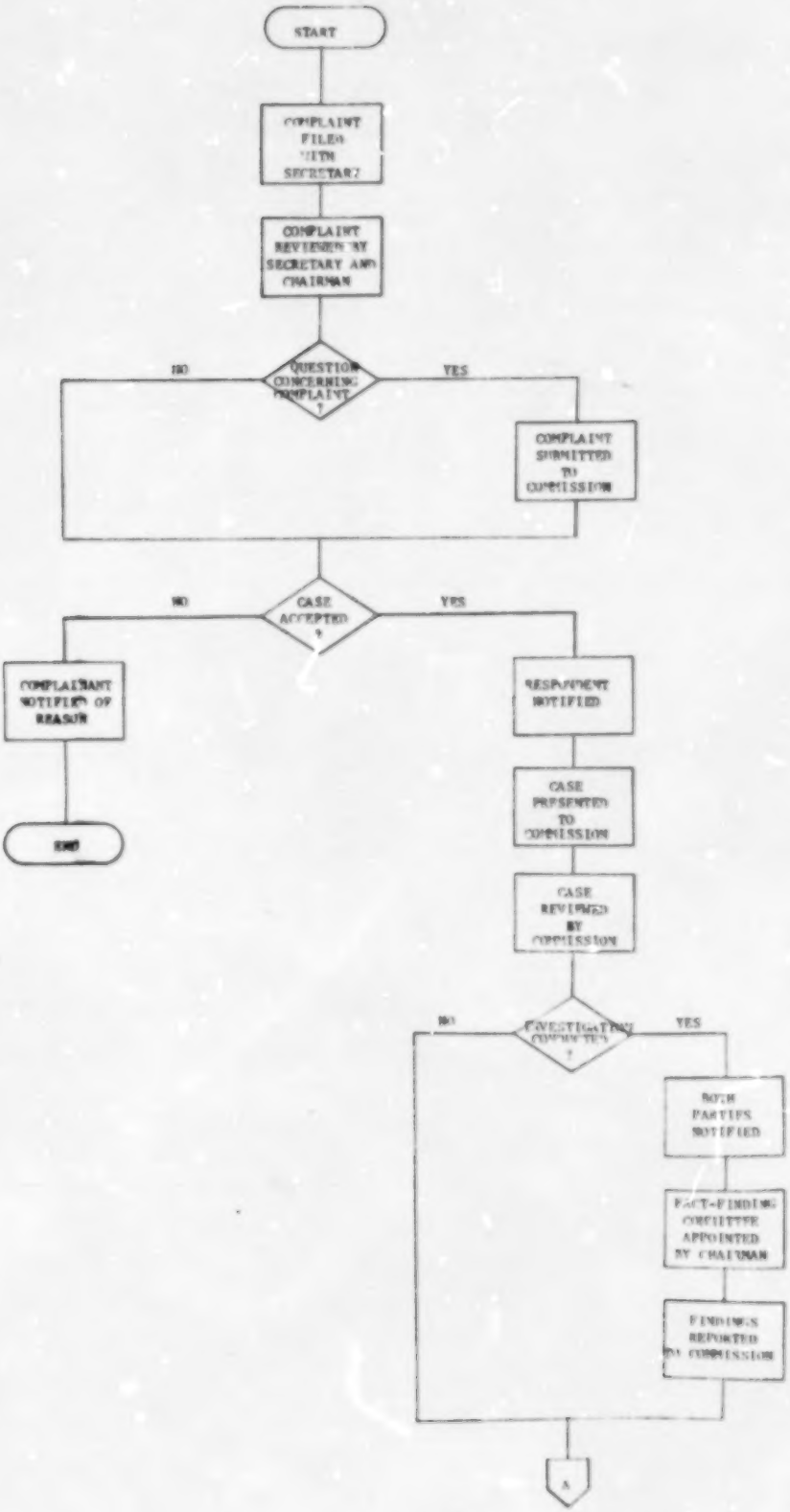
20. Commission conducts hearing, and determines if briefs are necessary.

21. If briefs are necessary, set deadlines for briefs to be presented, then close the record.

22. If briefs are not necessary, close the record.

23. Commission then makes their decision, sends recommendation to the State Board of Education.

24. Secretary notifies all interested parties of the outcome.


START
COMPLAINT FILED WITH SECRETARY
COMPLAINT REVIEWED BY SECRETARY AND CHAIRMAN
NO
QUESTION CONCERNING COMPLAINT ?
YES
COMPLAINT SUBMITTED TO COMMISSION
NO
CASE ACCEPTED ?
YES
COMPLAINANT NOTIFIED OF REASON
END
RESPONDENT NOTIFIED
CASE PRESENTED TO COMMISSION
CASE REVIEWED BY COMMISSION
NO
YES
BOTH PARTIES NOTIFIED
FACT-FINDING COMMITTEE APPOINTED BY CHAIRMAN
FINDINGS REPORTED TO COMMISSION
A